

Model Language for Employee Materials





Employer Instructions

Employers are required to inform their employees about their rights under Paid Family Leave, either in an employee handbook or other written materials.

To assist you, the following pages provide model language you can use and customize based on your Paid Family Leave policies and procedures.

Your employee materials should include:

- The name of your Paid Family Leave insurance carrier or if you are self-insuring for coverage.
- Whether you permit employees to use accrued time to supplement Paid Family Leave benefits.
- Whether Paid Family Leave must be taken concurrently with any other type of leave (e.g., maternity leave).
- Employees' responsibility for covering health insurance premiums while out on leave.
- Instructions on how to request Paid Family Leave.
- Whether you, as the employer, are subsidizing all or part of the cost of your employees' Paid Family Leave premiums.

See the appendix at the end of this document for additional model language on some of these considerations.

Note: *These materials are not offered, nor should be construed, as legal advice. It is strongly advised that you have your company attorney review the draft before preparing your final copy.*



Paid Family Leave Overview

New York's Paid Family Leave provides job-protected, paid time off so you can:

- **Bond** with a newly born, adopted or fostered child,
- **Care** for a close relative with a serious health condition, or
- **Assist** with family situations when a family member is deployed abroad on active military service.

You can continue your health insurance while on leave and are guaranteed the same or comparable job after your leave ends. If you contribute to the cost of your health insurance, you must continue to pay your portion of the premium cost while on Paid Family Leave.

Benefits - Time

Paid Family Leave benefits phase in over four years. Eligible employees can take Paid Family Leave for up to eight weeks in 2018, with coverage increasing to 10 weeks in 2019 and 2020, and 12 weeks in 2021. Leave can be taken either all at once or in full-day increments. You may take the maximum time-off benefit in any given 52-week period.

Benefits - Pay

Paid Family Leave pay benefits also phase in over four years. Benefits are a percentage of your average weekly wage, capped at that same percentage of the New York State Average Weekly Wage, as calculated annually by New York State's Department of Labor. These benefits are 50% of your average weekly wage for 2018, 55% in 2019, 60% in 2020, and 67% in 2021.

EXAMPLE 1: An employee who earns \$1,000 a week in 2018 would receive a benefit of \$500 a week (50% of \$1,000). In 2019, that employee would receive a benefit of \$550 a week (55% of \$1000).

EXAMPLE 2: An employee who earns \$2,000 a week in 2018 would receive a benefit of \$652.96. This employee's benefit is capped at 50% of New York State's Average Weekly Wage — currently \$1,305.92. Half of that amount is \$652.96.

Eligibility

All eligible employees are entitled to participate in Paid Family Leave.

- **Full-time employees:** Employees who work a regular schedule of 20 or more hours per week are eligible after 26 consecutive weeks of employment.
- **Part-time employees:** Employees who work a regular schedule of less than 20 hours per week are eligible after working 175 days, which do not need to be consecutive.

Employees are eligible regardless of citizenship and/or immigration status.



Funding

Paid Family Leave is funded through employee payroll contributions that are set each year to match the cost of coverage. The rate of employee contributions is reviewed annually, and is subject to change by New York State's Department of Financial Services.

You can use the calculator at ny.gov/PFLcalculator to get an estimate of your weekly deduction.

Qualifying Events

New Child: You can take Paid Family Leave during the first 12 months following the birth, adoption, or fostering of a child. Expectant mothers cannot take Paid Family Leave for their own pregnancy. Paid Family Leave for the birth of a child begins after the birth. It is not available for prenatal conditions.

Serious Illness: You can take Paid Family leave to care for a close relative with a serious health condition. These relatives can live outside of New York State and even outside the country. You cannot take Paid Family Leave for your own health condition.

A serious health condition is an illness, injury, impairment, or physical or mental condition that involves:

- Inpatient care in a hospital, hospice, or residential health care facility, or
- Continuing treatment or continuing supervision by a health care provider.

A close relative includes:

- Spouse
- Domestic partner
- Child and stepchild
- Parent and stepparent
- Parent-in-law
- Grandparent
- Grandchild



Military Active Service Deployment: You can take Paid Family Leave to assist with family situations arising when your spouse, domestic partner, child, or parent is deployed abroad on active military service or has been notified of an impending military deployment abroad. You cannot use Paid Family Leave for your own qualifying military event.

Your Rights and Protections

- You have **job protection**, ensuring you can return to the same job (or a comparable one) when you return from Paid Family Leave.
- You can keep your **health insurance** while on leave. If you contribute to the cost of your health insurance, you must continue to pay your portion of the premium cost while on leave.
- Your employer is **prohibited from discriminating or retaliating** against you for requesting or taking Paid Family Leave.
- **You do not have to take all of your sick and/or vacation time** before using Paid Family Leave.

Taking Paid Family Leave

- 1. Notify your employer.** When you want to take Paid Family Leave, you must notify your employer at least 30 days before your leave will start if it's foreseeable. Otherwise, notify your employer as soon as possible.
- 2. Obtain required forms.** Contact your employer, employer's insurance carrier, or visit ny.gov/PaidFamilyLeave to obtain the required forms.
- 3. Complete and submit forms.** Fill out the *Request For Paid Family Leave (Form PFL-1)* following the instructions on the cover sheet, and submit it to your employer. Your employer must fill out their section of the form and return it to you within three business days. If your employer fails to respond, you may proceed to the next step below and submit all materials directly to your employer's Paid Family Leave insurance carrier.
- 4. Obtain and attach supporting documentation.** The specific documentation or additional forms required for each type of leave are described on the request for Paid Family Leave and at ny.gov/PaidFamilyLeaveApply.
- 5. Submit your request forms and supporting documentation.** Submit to your employer's Paid Family Leave insurance carrier. You can submit your claim before or within 30 days after the start of your leave. The insurance carrier must pay or deny your request within 18 calendar days of receiving your completed forms.

Paid Family Leave Process and Contacts

At _____, requests for Paid Family Leave forms and
INPUT EMPLOYER NAME

forms submissions should be directed to: _____
INPUT DEPARTMENT NAME AND/OR EMAIL ADDRESS

Our Paid Family Leave insurance carrier is: _____
INPUT CARRIER NAME AND CONTACT INFORMATION

Disputes

If your Paid Family Leave claim is denied, the insurance carrier or employer, if self-insured, will provide you with information about how to request arbitration. A neutral arbitrator will decide claim-related disputes.

Contact:

insurance carrier: _____
INPUT CONTACT INFORMATION IF APPLICABLE

or,

For self-insured employers: _____
INPUT DEPARTMENT NAME AND/OR EMAIL ADDRESS IF APPLICABLE

Discrimination Complaints

Employees are protected from discrimination and retaliation for requesting or taking Paid Family Leave.

If your employer terminates your employment, reduces your pay and/or benefits, or disciplines you in any way as a result of you requesting or taking Paid Family Leave, send your employer's designated Paid Family Leave contact a formal request for job reinstatement using the *Formal Request For Reinstatement Regarding Paid Family Leave (Form PFL-DC-119)*, which can be found in the forms section of ny.gov/PaidFamilyLeave. File the completed form with your employer and send a copy to:

Paid Family Leave, P. O. Box 9030, Endicott, NY 13761-9030

If your employer fails to comply with the request for reinstatement within 30 days, you may file a Paid Family Leave discrimination complaint with the Workers' Compensation Board using *Paid Family Leave Discrimination Complaint (Form PFL-DC-120)*, which is also available on the Paid Family Leave website. Once your complaint is received, the Board will assemble your case and schedule a preliminary hearing in front of a Workers' Compensation Law Judge.



For more information on Paid Family Leave,
please visit ny.gov/PaidFamilyLeave or contact Human Resources.



Appendix: Model Language by Topic

As outlined in the Employer Instructions, there are elements of Paid Family Leave you may wish to explain in more detail, or provide specific information about in connection with your company policies. The list below describes some of these considerations and provides model language you can use as appropriate.

- 1. Relationship with other types of leave:** It may be beneficial for your business to address the relationship between *NYS Paid Family Leave (PFL)*, the federal *Family and Medical Leave Act (FMLA)*, short-term disability and Workers' Compensation.

Model language:

- Paid Family Leave can be taken by employees who are eligible for time off under the provisions of the FMLA. PFL will run concurrently with designated FMLA leave when the reason for leave qualifies under both PFL and FMLA. Eligible employees must then apply for both PFL and FMLA.
- You may not receive short-term disability and Paid Family Leave benefits at the same time. You may not take more than 26 combined weeks of short-term disability and Paid Family Leave in a 52-week period.
- If you are unable to work and qualify for Workers' Compensation Benefits, you may not use Paid Family Leave benefits at the same time as you are receiving Workers' Compensation benefits. If you are receiving reduced earnings, you may be eligible for Paid Family Leave. Please check with human resources.

- 2. Accruing time for PFL eligibility:** You may want to clarify that paid time off will count as a qualifying work day/days for eligibility for Paid Family Leave. An employer who makes payroll deductions for Paid Family Leave should continue to collect employee contribution during periods of paid time off.

- **Model language:** Time spent on paid vacation, sick or personal days can be counted toward an employee's eligibility determination.

- 3. Supplementing PFL with accrued time:** You may want to specify whether your business will allow employees to supplement PFL with accrued leave time in order to receive full pay.

- **Model language:** Employees may/may not supplement PFL with accrued time in order to receive full pay during their absence.

- 4. Using accrued time with PFL:** You may want to specify whether your business will allow employees to use accrued leave time in order to receive full pay. If you do allow this, you may seek reimbursement from your insurance carrier.

- **Model language:** Employees may/may not use accrued time with PFL benefits in order to receive full pay during their absence.

- 5. Accrual of leave time while on PFL:** You may want to clarify whether your business allows employees to continue to accrue leave while on PFL.

- **Model language:** While on PFL, employees will/will not continue to accrue sick or vacation time.

- 6. Policy on spouses taking PFL:** If two spouses work for your company, you may want to share your policy on whether these employees can take Paid Family Leave at the same time for the same qualifying event (e.g., to bond with a new child), or if they must take it one at a time.

- **Model language:** Company policy allows only one employee at a time to receive PFL to bond with the same child or care for the same family member.